

REMARKS

In the Office Action mailed April 29, 2009 the Office noted that claims 1-13 were pending and rejected claims 1-13. Claims 1, 7 and 12 have been amended, claim 4 has been canceled, and, thus, in view of the foregoing claims 1-3 and 5-12 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections are traversed below.

DOUBLE PATENTING

Claims 1-13 are rejected on grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 7,502,285.

The claims of US Patent No. 7,502,285 do not disclose the novel feature of claims 1 to 12 such that (i) "at least one portion of the first buffer area is formed in advance as a pre-recording area, of embossed pits or pits obtained by irradiation of recording laser", (ii) "the management area records therein identification information indicating whether or not at least one portion of the first buffer area is formed in advance as the pre-recording area" and (iii) "the identification information is start / end address information indicating a start or end position of at least one portion of the first buffer area formed in advance."

More specifically, the claims of US Patent No. 7,502,285 merely disclose the forming of the Middle Area / ODTA

(Outer Disc Testing Area). However, the claims of US Patent No. 7,502,285 do not disclose that the Middle Area / OUTA (Outer Disc Testing Area) is formed in advance as a pre-recording area, of embossed pits or pits obtained by irradiation of recording laser. Therefore, the claims of US Patent No. 7,502,285 do not disclose the above feature of claims 1 to 12 of the present application.

In addition, claim 2 of US Patent No. 7,502,285 discloses the management area, but does not disclose that the management area records therein the identification information. Therefore, the claims of US Patent No. 7,502,285 do not disclose the above features Nos. (ii) and (iii) of claims 1 to 12 of the present application.

Withdrawal of the rejection is respectfully requested.

REJECTIONS under 35 U.S.C. § 101

Claim 13 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular, the Office asserts that the claim is to software **per se**.

The Applicants have cancelled claim 13.

Withdrawal of the rejection is respectfully requested.

REJECTIONS under 35 U.S.C. § 102

Claims 1-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Junsaku, JP 2002-216361. The Applicants respectfully disagree and traverse the rejection with an argument

and amendment.

On page 4 of the Office Action, it is asserted that Junsaku, ¶ 0046-0045 disclose "said information recording medium further comprising a management area to record therein identification information indicating whether or not at least one portion of said first buffer area is formed in advance as the pre-recording area," as in claim 1.

However, the "address information" disclosed in Junsaku merely indicates an address of the recording area (or recorded information), but does not indicates whether or not at least one portion of the first buffer area is formed in advance as the pre-recording area.

Further, there is no disclosure, suggestion or teaching related to the feature such that "the address information indicates at least one portion of the first buffer area is formed in advance as the pre-recording area."

Further, Junsaku fails to disclose the novel features of the "identification information which indicates whether or not at least one portion of the first buffer area is formed in advance as the pre-recording area" and the "management area for recording therein the identification information."

On page 5 of the Office Action, it is asserted that Junsaku, ¶ 0059 discloses "wherein the identification information is start / end address information indicating a start or end position of at least one portion of said first buffer area formed

in advance," as in claim 4.

Junsaku ¶ 0059 merely shows only the terms "reproduction starting address / reproduction end address".

However, Junsaku ¶ 0059 (and other paragraphs of Junsaku) do not disclose, teach or suggest what the terms "reproduction starting address / reproduction end address" mean.

In other words, Junsaku ¶ 0059 (and other paragraphs of Junsaku) do not disclose, teach or suggest that the terms "reproduction starting address / reproduction end address" indicates a start or end position of at least one portion of said first buffer area formed in advance."

The Applicant has amended claim 1 to include the features of claim 4. The other independent claims have likewise been amended.

Therefore, for at least the reasons discussed above, claims 1, 7 and 12 and the claims dependent therefrom are not anticipated by Junsaku.

Withdrawal of the rejections is respectfully requested.

#### SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 101 and 102. It is also submitted that claims 1-3 and 5-12 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition

suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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